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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,368	05/18/2007	Bjorn Bunte	P2520US00	8126

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DITTHAVONG MORI & STEINER, P.C.  
918 Prince Street  
Alexandria, VA 22314

EXAMINER
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DOAN, TRANG T

ART UNIT	PAPER NUMBER
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2431

NOTIFICATION DATE	DELIVERY MODE
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12/09/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dcpatent.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/591,368	<b>Applicant(s)</b> BUNTE ET AL.	
	<b>Examiner</b> TRANG DOAN	<b>Art Unit</b> 2431	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 89-124, 127 and 128 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 89-124, 127 and 128 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 09/10/2010.
2. Claims 1-88 and 125-126 have been canceled.
3. Claims 89, 98, 107 and 117-124 have been amended.
4. Claims 127-128 have been added.
5. Claims 89-124 and 127-128 are pending for consideration.

### ***Continued Examination Under 37 CFR 1.114***

6. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/10/2010 has been entered.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 89-124 and 127-128 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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9. Claim 91 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Regarding claim 91, the limitation "authenticating the mobile terminal via the wireless communication connection while downloading the gaming application via the data network connection" is not clear to Examiner how it can be done. There is no support in applicant's specification regarding the above feature. Appropriate correction is required.

11. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

12. Claim 128 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is nowhere in the applicant's specification that describes the concept of determining to use the interchangeable mass storage in conjunction with different mobile terminals thereby enforcing digital right associated with the gaming application. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 89-90, 94-96, 99-108, 112-118, 122-124 and 127-128 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rao et al. (US7286502) (hereinafter Rao) in view of Cochran et al. (US20050154787) (hereinafter Cochran).

15. Regarding claim 89, Rao discloses a method comprising: determining to establish a wireless communication connection between a mobile terminal and a server stored with data (Rao: see figure 6; column 5 lines 49-66: a wireless device, CT/MD 602 with I/O ports 610 and CT/MD 612 with the ability to interface through a cradle adapter 604 having both wireless and wired connections 606; and column 6 lines 23-33); determining to establish a data network connection between the mobile terminal and the server, the data network connection being independent from the wireless communication connection (Rao: column 6 lines 4-12 and column 4 lines 15-31: dual T/R unit allows the internal processor to independently process the two incoming signal streams separately and optimally); and determining to receive the data streams from the server to the mobile terminal via the data network connection and the wireless communication connection (Rao: column 4 lines 24-31 and column 6 lines 54-67).

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Rao does not disclose the data stored at the server is a game application. However, Cochran discloses the data stored at the server is a game application (Cochran: paragraph 0026: a server 116 stores video games). Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to have included in Rao the feature of Cochran as discussed above to have more variety contents such as gaming application available for the wireless device.

16. Regarding claim 107, Claim 107 is an apparatus claim that is substantially equivalent to method claim 1. Therefore, claim 107 is rejected by a similar rationale.

17. Regarding claim 117, Claim 117 is a non-transitory computer-readable storage medium claim that is substantially equivalent to method claim 1. Therefore, claim 117 is rejected by a similar rationale.

18. Regarding claim 90, 108, 118 and 127, Rao as modified by Cochran discloses wherein the gaming application is downloaded simultaneously using the wireless communication connection and the data network connection (Rao: column 6 lines 23-33).

19. Regarding claim 94, 112 and 122, Rao as modified by Cochran discloses wherein the server permits downloading of the gaming application to only the mobile terminal (Rao: column 5 lines 19-23).

20. Regarding claim 95, 113 and 123, Rao as modified by Cochran discloses wherein the wireless communication connection is established over a public land

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mobile network that performs at least one of authentication, authorization and payment procedures (Cochran: paragraph 0026).

21. Regarding claim 96, 114 and 124, Rao as modified by Cochran discloses wherein the wireless communication connection is initiated by the mobile terminal or the server (Rao: see figure 7).

22. Regarding claim 99 and 115, Rao as modified by Cochran discloses wherein the data network connection includes at least a local connection between an apparatus and the mobile terminal, and a sub-data network connection between the apparatus and the server, and the apparatus adapts the mobile terminal to the sub-data network connection (Rao: see figure 6).

23. Regarding claim 100 and 116, Rao as modified by Cochran discloses wherein the sub-data network connection includes at least one of an analog telephone line connection, a digital telephone line connection, a broadband cable connection, a powerline communication connection, a glass fiber connection, a satellite downlink, an Ultrawideband connection, and a line of sight transmission connection (Rao: column 4 lines 45-48).

24. Regarding claim 101, Rao as modified by Cochran discloses wherein the local connection between the mobile terminal and the apparatus is established by the mobile terminal (Rao: see figure 7).

25. Regarding claim 102, Rao as modified by Cochran discloses wherein the sub-data network connection between the apparatus and the server is initiated by the mobile terminal (Rao: see figure 6: the cradle).

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26. Regarding claim 103, Rao as modified by Cochran discloses wherein the local connection between the mobile terminal and the apparatus is established via a short-range wireless communication connection (Rao: column 5 lines 15-17).

27. Regarding claim 104, Rao as modified by Cochran discloses wherein the apparatus is built in the mobile terminal (Rao: see figure 6).

28. Regarding claim 105, Rao as modified by Cochran discloses wherein the settings of the apparatus are controlled by the mobile terminal or the server (Rao: column 5 lines 48-67).

29. Regarding claim 106, Rao as modified by Cochran discloses wherein the settings include at least one of an address, a upload data rate, a download data rate, a packet size, a repeat rate, fragmentation, coding, and scrambling (Rao: column 3 lines 10-25).

30. Regarding claim 128, Rao as modified by Cochran discloses determining to use the interchangeable mass storage in conjunction with different mobile terminals thereby enforcing digital right associated with the gaming application (Cochran: paragraph 0028).

31. Claims 91, 109, and 119 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rao in view of Cochran, and further in view of Zhang (US7239864) (hereinafter Zhang).

32. Regarding claim 91, 109, and 119, Rao in view of Cochran does not disclose further comprising: authenticating the mobile terminal via the wireless communication connection while downloading the gaming application via the



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data network connection. However, Zhang discloses authenticating the mobile terminal via the wireless communication connection while downloading the gaming application via the data network connection (Zhang: column 5 lines 3-11). Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to have included in Rao in view of Cochran the feature of Zhang as discussed above to save one round trip of communication time (Zhang: column 5 lines 3-4).

33. Claim 98 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rao in view of Cochran, and further in view of Sawano et al. (US20010039212) (hereinafter Sawano).

34. Regarding claim 98, Rao in view of Cochran does not disclose determining to store the downloaded gaming application into an interchangeable mass storage. However, Sawano discloses determining to store the downloaded gaming application into an interchangeable mass storage (Sawano: paragraph 0004). Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to have included in Rao in view of Cochran the feature of Sawano as discussed because there is a need to increase the storage capacity of the portable game machine to make the capacity large enough to store the auxiliary program (Sawano: paragraph 0008)

35. Claims 92-93, 110-111 and 120-121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rao in view of Cochran, and further in view of Skog et al. (US20040260816) (hereinafter Skog).

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36. Regarding claim 92, 110 and 120, Rao in view of Cochran does not disclose wherein the mobile terminal is authenticated by either a cellular phone number of the mobile terminal, a serial number of the mobile terminal, a serial number of a subscriber identification member (SIM) card, or a serial number of a computer readable storage medium carrying only an initialization engine and a game communication control engine of the gaming application. However, Skog discloses wherein the mobile terminal is authenticated by either a cellular phone number of the mobile terminal, a serial number of the mobile terminal, a serial number of a subscriber identification member (SIM) card, or a serial number of a computer readable storage medium carrying only an initialization engine and a game communication control engine of the gaming application (Skog: paragraph 0010 and paragraph 0018). Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to have included in Rao in view of Cochran the feature of Skog as discussed above to protect a secure resource which can only be accessed by a legitimated subscriber identification number.

37. Regarding claim 93, 111 and 121, Rao as modified by Cochran and Skog discloses wherein at least one of the SIM card and the computer readable storage medium is used in conjunction with different mobile terminals to download the gaming application (Skog: paragraph 0010 and paragraph 0018).

38. Claim 97 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rao in view of Cochran, and further in view of Thielke et al. (US6324564) (hereinafter Thielke).

Regarding claim 97, Rao in view of Cochran does not disclose initiating by the server a call back function. However, Thielke discloses initiating by the server a call back function (Thielke: column 5 lines 1-20). Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to have included in Rao in view of Cochran the feature of Thielke as discussed above to improve the efficacy of IP-based applications when running over wireless or other mobile networks (Thielke: column 2 lines 49-51).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRANG DOAN whose telephone number is (571)272-0740. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Trang Doan/  
Examiner, Art Unit 2431

/Kaveh Abrishamkar/  
Primary Examiner, Art Unit 2431